

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Golden West Oil Co., Inc.  
11040 Cherry Avenue  
Fontana, California 92335

EPA ID No. CAD980893325

Respondent.

Docket HWCA 20040574

CONSENT ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Golden West Oil Co., Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 11040 Cherry Avenue, Fontana, California (Site).

1.3. Inspection. The Department inspected the Site on August 19, 2003.

1.4. Authorization Status. The Department authorized Respondent to manage hazardous waste by hazardous waste transporter registration number 0219, most recently issued on May 18, 2004. Respondent has been a registered hazardous waste transporter since 1985. Respondent does not have a permit to handle, store, or treat hazardous waste.

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GOLDEN WEST OIL CO., INC.

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1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. The parties wish to avoid the expense of litigation and to ensure prompt compliance with the statutes and/or regulations cited herein. This Order shall constitute full settlement of the violations alleged below, but does not limit the Department from taking appropriate enforcement action concerning other violations.

1.7. Admissions. Respondent admits the violations set forth herein.

#### VIOLATIONS ALLEGED

2. The Department alleges the following violations:

2.1. Respondent violated Health and Safety Code, section 25201, subdivision (a), in that on or before August 19, 2003, Respondent routinely transferred and/or stored hazardous waste used oil and/or antifreeze from its bobtail tanker trucks into larger capacity dedicated tanker trucks at its yard at 11040 Cherry Avenue in Fontana. Respondent does not have a permit or other grant of authorization from the Department to transfer and/or store hazardous waste. According to the Hazardous Waste Tracking System (HWTS) Manifest Shipments by Date Report, this has occurred on approximately 771 occasions between August 19, 1998, and August 19, 2003.

2.2. Respondent violated Health and Safety Code, section 25160.2, subdivisions (b)(6) and (b)(8), in that on or before August 19, 2003, Respondent failed

to follow the consolidated manifesting procedures, to wit: GWO failed to submit the generator copy of the consolidated manifest to the department within 30 days of each shipment. In addition, GWO failed to submit all copies of the manifest to the designated facility and obtain the signature and date on the manifest from a representative of the designated facility. According to the Hazardous Waste Tracking System (HWTS) Manifest Shipments by Date Report, this has occurred on approximately 771 occasions between August 19, 1998, and August 19, 2003.

2.3. Respondent violated California Code of Regulations, title 22, section 66263.20, subdivision (g)(1), in that on or before August 19, 2003, Respondent failed to obtain the date of delivery and the handwritten signature of the owner or operator of the designated facility on the manifest, to wit: Respondent created "cover manifests" for loads that it transferred and bulked. Respondent then listed a number of manifests on the cover manifest. Only the "cover manifest" would be provided to the designated facility for signature. None of the manifests listed on a "cover manifest" would be delivered to the designated facility for signature. According to the Hazardous Waste Tracking System (HWTS) Manifest Shipments by Date Report, this has occurred on approximately 771 occasions between August 19, 1998 and August 19, 2003.

2.4. Respondent violated Health and Safety Code, section 25189, subdivision (a), in that on or before August 19, 2003, Respondent negligently made a false statement on manifest 21780089, to wit: Manifest 21780089 is a "cover manifest" which cross references as having been a manifest transfer for manifest 21780073, as well as four other manifests. Manifest 21780073 was produced by GWO as

representing the contents of what was present in the tanker truck in the center of the yard on August 19, 2003. The contents of manifest 21780073 were not contained as part of the bulk load that was delivered to a Treatment, Storage and/or Disposal Facility (TSDF) under "cover manifest" 21780089 on August 13, 2003. The original manifest 21780073 was subsequently delivered to a TSDF by GWO on August 20, 2003.

#### SCHEDULE FOR COMPLIANCE

3. Respondent shall comply with the following:

3.1.1. Effective immediately, Respondent shall cease the handling, storage and transfer of hazardous waste without authorization from the Department.

3.1.2. Effective immediately, Respondent shall submit all copies of the manifest to the designated facility. Respondent shall submit the generator copy of all consolidated manifests to the Department within 30 days of each shipment.

3.1.3. Effective immediately, Respondent shall obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on all manifests.

3.1.4. Effective immediately, Respondent shall cease making false statements on manifests.

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GOLDEN WEST OIL CO., INC.

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3.2. Submittals. All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Stephen C. Sterling, Chief  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
1001 I Street, 25<sup>th</sup> Floor  
P.O. Box 806  
Sacramento, California 95814

and

Richard L. Jones  
Senior Hazardous Substances Scientist  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
1011 N. Grandview Avenue  
Glendale, California 91201

3.3. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.4. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and

contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.5. Sampling, Data, and Document Availability.

3.5.1. Respondent shall allow the Department and/or its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.5.2. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either:

- (a) comply with that request,
- (b) deliver the documents to the Department, or
- (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.6. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent, or related parties specified in paragraph 4.3, in carrying out activities pursuant to this Order, nor shall the State of California or the Department be

held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

3.7. Incorporation of Plans and Reports. All plans, schedules, and reports that were submitted by Respondent pursuant to the violations and corrective action set forth above this Order and were approved by the Department are incorporated into this Order.

#### OTHER PROVISIONS

4.1. Additional Enforcement Action. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either the Respondent(s) or the Site, except to the extent provided in this Order.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

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4.4. Privileges. Nothing in this Agreement shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

4.5. Time Periods. "Days" for the purpose of this Order means calendar days.

#### PENALTY

5.1. Respondent shall pay a total of \$76,508, of which \$38,061 is a penalty, \$25,760 is reimbursement of the Department's costs, and \$12,687 is a supplemental environmental project consisting of a contribution to the Environmental Enforcement and Training Account.

5.2. The total sum shall be payable in eight (8) monthly installments of \$8,500 and one final installment of \$8,508. The first such payment shall be due on the first day of first calendar month following the effective date of this Consent Order. Each subsequent payment shall be due on the first day of each successive month until paid in full. In the event that any payment is not received at the address set forth below on or before the tenth day of the month in which it is due, the entire remaining balance shall become due and payable immediately.

5.3. Respondent's checks for penalty and costs shall be made payable to the "Department of Toxic Substances Control." Respondent's check for the supplemental environmental project shall be made payable to the "Cal/EPA Environmental Enforcement and Training Account." All checks shall identify the Respondent and Docket Number as shown in the heading of this case.



5.4. Respondent's checks payable to the "Department of Toxic Substances

Control" shall be delivered to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
Post Office Box 806  
Sacramento, California 95812-0806

5.5. Respondent's checks payable to the "Cal/EPA Environmental Enforcement

and Training Account" shall be delivered to:

James J. Grace  
Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, 23rd floor  
Post Office Box 806  
Sacramento, California 95812-0806

5.6. Photocopies of all checks shall be sent to:

Stephen C. Sterling, Chief  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
1001 I Street, 25<sup>th</sup> Floor  
P.O. Box 806  
Sacramento, California 95814

and

Richard L. Jones  
Senior Hazardous Substances Scientist  
Task Force Support and Special Investigations Branch  
1011 N. Grandview Avenue  
Glendale, California 91201

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5.7. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

EFFECTIVE DATE

6. The effective date of this Order is the date it is signed by the Department.

Original signed by:

Dated: 9/24/2004

R. J. Bennett, Pres.

Respondent

Dated: 9/28/04

Original signed by  
Phillip Blum, P.E., Unit Chief  
Task Force Support and  
Special Investigations Branch  
Department of Toxic Substances Control

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